

EXHIBIT 2



Office of the Assistant Attorney General

Washington, D. C. 20530

SEP 3 2010

The Honorable Lamar Smith
Ranking Minority Member
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Smith:

This responds to your letter to the Attorney General dated August 9, 2010, urging the Department of Justice to appeal decisions in two cases challenging the constitutionality of the Defense of Marriage Act, Pub. L. 104-199.

Although the opinions of the Massachusetts federal district court granting summary judgment to the plaintiffs in *Gill v. Office of Personnel Management* (No. 09-10309) and *Commonwealth of Massachusetts v. United States Department of Health and Human Services* (No. 09-11156) were both issued on July 8, 2010, it is the entry of final judgments in those cases that commences the period of time during which notices of appeal may be filed. See Fed. R. Civ. P. 58(a); Fed. R. App. P. 4(a)(1)(B). A final judgment in *Massachusetts* was entered on August 12, and an amended final judgment in *Gill* was entered on August 18. Thus, the notice of appeal in *Massachusetts* is due by October 12, 2010, and the notice of appeal in *Gill* is due by October 18, 2010.

The process for considering appeals in these two cases is underway within the federal government. If it were to be decided that the United States will not appeal, the Department of Justice would report that decision to the appropriate members and officers of the House of Representatives and United States Senate pursuant to 28 U.S.C. § 530D. As there has been no determination against appeal in these cases, there is nothing to report to Congress at this time.

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We hope this information is helpful and trust that this letter responds to your concerns about the deadlines for pursuing appeals in these two cases and complying with the reporting requirements of 28 U.S.C. § 530D. Please do not hesitate to contact this office if we may provide additional assistance regarding this, or any other matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Weich', is written over the typed name.

Ronald Weich
Assistant Attorney General

cc: The Honorable John Conyers, Jr.
Chairman